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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/789,388

02/28/2004

John P. Kallestad

DC1-001

4950

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03/24/2010

EXAMINER

KAYES, SEAN PHILLIP

ART UNIT

PAPER NUMBER

2833

MAIL DATE

DELIVERY MODE

03/24/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



Office Action Summary

Application No.

10/789,388

Applicant(s)

KALLESTAD, JOHN P.

Examiner

SEAN KAYES

Art Unit

2833

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/4/2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 5-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 5-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/4/2010 has been entered.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Elberg (US 2741082).
3. With respect to claim 1 Elberg discloses a clock comprising
- a first hand (18 figure 6) to indicate day of the week, the first hand mounted on a first shaft (36 figure 6) and driven by a first day gear (30) and a third day gear (35), and
 - a second hand (19 – column 10 line 13) to indicate hour, the second hand mounted on a second shaft (29), a third hand (20 – col. 10 line 13) to indicate minutes, the third hand mounted on a third shaft (48), the first hand, second

hand, and third hand sharing a common axis of rotation, the first shaft and second shaft being concentric with respect to each other (figure 1 and 6), wherein the third day gear provides one revolution to the first day gear for each 14 rotations of the second hand (*1 – see discussion provided below) , and a second day gear (26 or 28) provides manual adjustment to the first hand (*2 – see below).

(*1) - 31 and 42 rotate once per day so as to adjust the day wheel and indicator (35 and 18). 30 rotates twice per day according to the drive operation of hour hand 19. The day indicator 18 corresponds to seven days a week (Sun.-Sat.). Accordingly, the day wheel rotates 14 times relative to a full rotation of the hour wheel. Fourteen equals seven times two.

(*2) - Knob 95 allows for manual operation of the drive gears. 95 drives 26. 26 drives 28. 28 is coaxial and drives 28a by axial attachment. 28a drives 27. 27 drives 30 by axial attachment. 30 drives 31. See figure 6.

4. With respect to claim 7 Elberg discloses the clock of claim 1 further comprising means (74, 91, 95 figure 2; 21 figure 16) for adjusting time indicated by said clock.

5. With respect to claim 8 Elberg discloses the clock of claim 1 wherein said adjustment means comprises at least one knob (74, 91, 95 figure 2; 21 figure 16).

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6. With respect to claim 9 Elberg discloses the clock of claim 1 wherein said adjustment means comprises at least one knob (95) to adjust said first hand (20).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elberg (US 2741082) in view of Komiyama (US 5062090).

9. With regard to claim 5 Elberg does not teach a quartz oscillation.

Quartz oscillation time bases are notoriously well known. Komiyama teaches such a battery powered quartz time base. At the time of the invention it would have been obvious to one having ordinary skill in the art to utilize a quartz time base in Elberg's device. The reason for doing so would have been to utilize a reliable inexpensive time source to form the timing signal of the device, as taught by Komiyama.

10. With regard to claim 6 Elberg does not teach battery power.

Komiyama teaches such a battery powered quartz time base. At the time of the invention it would have been obvious to one having ordinary skill in the art to provide Elberg's device with a battery powered quartz time base as taught by Komiyama. The

reason for doing so would have been to utilize a reliable inexpensive time source to form the timing signal of the device, as taught by Komiyama.

Response to Arguments

11. Applicant's arguments filed 3/4/2010 have been fully considered but they are not persuasive.

Applicant argues that Elberg does not teach the claimed first and third day gears revolving at a ratio of 1:14. This argument is not persuasive. Elberg teaches a gear (30) that rotates twice per day and another gear (35) that rotates once week (7-days). See page 4 of the office action mailed 10/26/2009.

12. Applicant argues that Elberg fails to provide an enabling disclosure and thus does not disclose the limitation of claim 1. Applicant further details that wheel 31 in Elberg is drawn without any shaft, yet is attached to the hub 32. Applicant further states: "there is nothing shown in contact with wheel 31 other than hub 32 ... Thus, wheel 31 cannot operate anything through its rotation and simply spins freely". This argument is not persuasive. Applicant citation (col. 7 lines 34-40) explicitly states that toothed wheel 31 is secured by pin 43 to a hub 32 **fixed** to the wheel 31. Thus the wheel cannot spin freely as asserted by applicant. Elberg is employing drafting standards that are very common with regard to the field of horology. One having ordinary skill in this field would readily recognize that gear 31 and 32 are integral in rotation (as further explicitly stated by Elberg). Common methods of connection include welding, press fitting, and forming the elements integrally.

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13. Applicant further cites Elberg as stating that wheel 31 is fixed to two cams 33 and 42. This argument is confusing. This position is the opposite position that applicant is asserting.

14. Applicant asserts:

In order for wheel 31 to be useful, there must be two points of contact - one to activate wheel 31 and another to translate its motion to another element. For example, a gear needs a shaft or another gear to drive it, and a second gear or a hand or other indicator to be in contact with the gear to translate its motion for a useful purpose. This basic mechanical principle is not adhered to in Elberg.

Wheel 31 is attached at two points. Reference numerals pertain to figure 6 of Elberg. 31 is attached to 30 at the radial external edge. 31 is attached to 32 at the radial internal edge. 32 is connected to center staff 17 by pin 43. The combination of 31, 32, and 17 rotated together relative to 34 which provides rotational support. 34 is attached to plate 1. The basic mechanical principles are adhered to and clearly indicated in figure 6 of Elberg.

15. Applicant asserts that "missing elements may not be supplied by the knowledge of one skilled in the art or the disclosures of another reference." This argument is not persuasive because no such reliance is necessary. Elberg teaches a calendar timepiece. Said timepiece discloses all the structures claimed as per the grounds of the rejection. The reference is, however, not written and read in a vacuum. The reader is expected to understand the meaning of various terms and understand basic principles

of horology. In order to be enabled, a reference does not need to disclose every inherent feature of the disclosed structure. Elberg teaches a 12-hour hand (19) with a coaxial gear (30). Elberg teaches a hand (18) a coaxial gear (35) that rotates once per every 14 rotations of the first hand. These elements are connected in rotation by the disclosed structures of figure 6, as per the grounds of rejection. No reliance is made upon structure taught by other references.

Conclusion

16. This is a RCE of applicant's earlier Application No. 10/789388. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SEAN KAYES whose telephone number is (571)272-8931. The examiner can normally be reached on 11:00am to 9:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Renee Luebke can be reached on (571) 272-2009. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SK
3/18/2010

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